



THE  
CEYLON GOVERNMENT  
GAZETTE

EXTRAORDINARY.

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PART I.—GENERAL.

GOVERNMENT NOTIFICATIONS.

THE DEFENCE (TRADING WITH THE ENEMY) REGULATIONS, 1939.

ORDER made by the Governor by virtue of the powers vested in him by Regulation 6A of the Defence (Trading with the Enemy) Regulations, 1939.

By His Excellency's command,

E. R. SUDBURY,  
Secretary to the Governor.

Colombo, July 30, 1940.

ORDER.

1. (i.) Any money which would, but for the existence of a state of war, be payable to or for the benefit of a person who is an enemy, and any money which is to be deemed for the purposes of the Regulations to be money which would, but for the existence of a state of war, be so payable, shall be paid to the Custodian.
- (ii.) Without prejudice to the generality of the foregoing paragraph, there shall be paid to the Custodian in particular any money which would, but for the existence of a state of war, be payable to or for the benefit of a person who is an enemy, by way of:
  - (a) dividends, bonus or interest, in respect of any shares, stock, debentures, debenture stock, bonds or other securities, issued by any company or government, or any municipal or other authority;
  - (b) payment of any securities which have become payable on maturity or by being drawn for payment or otherwise;
  - (c) interest or other payment in respect of any loan or deposit whether secured or unsecured;
  - (d) profits or share of profits in any business, syndicate or other mercantile enterprise or adventure;
  - (e) debt, including money in the possession of any bankers, whether on deposit or current account or whether held in trust or in custody for or for the benefit of an enemy;
  - (f) money due under or in respect of any policy of assurance;
  - (g) rent or other payment reserved out of or payable in respect of any immovable property or any interest therein;
  - (h) payment in respect of any requisitioned property;
  - (i) payment arising under any trust, will or settlement.
- (iii.) Any money which would, but for the provisions of regulation 4 or regulation 5 of the Regulations, be payable to any purported assignee, transferee or allottee, shall be paid to the Custodian.
- (iv.) Any money required to be paid under the foregoing paragraphs of this Article to the Custodian, shall be paid—
  - (a) forthwith, if the money has become payable or would, but for the existence of a state of war, have become payable before the coming into force of this Order; or

- (b) within fourteen days after the day on which a person becomes an enemy, if the money is required to be paid to the Custodian by reason of that person being an enemy and the money has become payable or would, but for the existence of a state of war, have become payable before the day on which that person becomes an enemy; or
- (c) in any other case, within fourteen days after the day on which the money becomes payable or would, but for the existence of a state of war, become payable; and
- (d) in cases in which money would, but for the existence of a state of war, be payable in a foreign currency to or for the benefit of a person who is an enemy (other than cases in which money is payable under a contract in which provision is made for a specified rate of exchange), in currency which is legal tender in Ceylon at a rate of exchange declared by the Financial Secretary to be the middle rate of exchange on the date on which the payment became due to that person, or the middle rate of exchange for telegraphic transfers in Colombo on that date, or, if there was no such rate on that date, at such rate as the Financial Secretary may determine as appropriate for ascertaining the value in currency which is legal tender in the Colony of the money payable on that date.

(v.) Nothing in the foregoing provisions of this Article shall be taken to require payment to the Custodian of any money, the payment of which is authorized—

- (a) to some other person, under an authority given generally or specially by the Governor or by any person authorized in that behalf by the Governor; or
- (b) to the Treasury.

2. (i.) The Governor, in any case where it appears to him to be expedient to do so, may by order vest in the Custodian such enemy property as may be prescribed or the right to transfer such other enemy property as may be prescribed. Any order so made by the Governor is hereinafter referred to as a "Vesting Order".

(ii.) The Custodian shall, except in so far as may be otherwise prescribed by the Vesting Order, have such powers with regard to the enemy property or the right to transfer enemy property vested in him by a Vesting Order as are prescribed by this Order.

(iii.) A Vesting Order as respects property of any description shall be of the like purport and effect as a Vesting Order as respects property of the same description made under the Trusts Ordinance, and shall be sufficient to vest in the Custodian any property or the right to transfer any property as provided by the Vesting Order without the necessity of any further conveyance, assurance or document.

(iv.) If the benefit of an application made by or on behalf of or for the benefit of an enemy or enemy subject for a patent or for the registration of any patent is by order made under the Regulations vested in the Custodian, the patent may, notwithstanding anything in the Patents Ordinance, be granted to the Custodian as patentee or registered in his name, as the case may require; and any patent so granted or registered shall be deemed to be property vested in the Custodian by such order as aforesaid.

3. (i.) The Custodian shall, subject to the provisions of the next succeeding paragraph and except in so far as the Governor either generally or in any specific case may otherwise direct or order, hold any money paid to him under this Order and any property or the right to transfer any property vested in him under any Vesting Order until the termination of the present war, and shall thereafter deal with the same in such manner as the Governor shall direct.

(ii.) The Custodian, acting under a general or special direction of the Governor, may at any time pay over any particular money paid to him under this Order or transfer any particular property in respect of which a Vesting Order has been made to or for the benefit of the person who would have been entitled thereto but for the operation of the Regulations or any Order made thereunder or to any person appearing to the Custodian to be authorized by such person to receive the same.

(iii.) Any money paid to the Custodian under this Order and any property in respect of which a Vesting Order has been made shall not be liable to be attached or otherwise taken in execution.

(iv.) The receipt of the Custodian of any person duly authorized by him to sign receipts on his behalf for any money paid to him under this Order shall be a good discharge to the person paying the same.

4. No person shall, without the consent of the Governor, save as directed by this Order transfer, part with or otherwise deal with the property of any enemy.

5. (i.) Any person who holds or manages for or on behalf of an enemy any property shall forthwith (or, if the property comes into his possession or under his control after the coming into force of this Order or the person for or on behalf of whom property is held or managed, becomes an enemy after that date, then within fourteen days after the time when the property comes into the possession or under the control of the first mentioned person or the person for or on behalf of whom the property is held or managed becomes an enemy, as the case may be), by notice in writing communicate the fact to the Custodian, and shall furnish the Custodian with such returns, accounts and other information, and produce for inspection such documents in relation thereto, as the Custodian may require.

(ii.) Any enemy subject who holds or manages any property or any person who holds or manages any property for or on behalf of an enemy subject shall furnish the Custodian with such returns, accounts and other information, and produce for inspection, such documents in relation thereto, as the Custodian may require.

(iii.) Every company incorporated in Ceylon and every company which though not incorporated in Ceylon has a share transfer or share registration office in Ceylon, shall, within fourteen days after the coming into force of this Order, by notice in writing communicate to the Custodian full particulars of all shares, stock, debentures and debenture stock, bonds or other securities issued by the company which are held by or for the benefit of an enemy; and, if any shares, stock, debentures or debenture stock, bonds or other securities issued by any such company as aforesaid are held by or for the benefit of any person who becomes an enemy after the coming into force of this Order, the company shall, within fourteen days after the day on which that person becomes an enemy, by like notice communicate to the Custodian the like particulars in regard to that person.

(iv.) Every partner of every firm, any partner of which has, at any time before the coming into force of this Order, become an enemy, or to which money has been lent for the purpose of the business of the firm by a person who so became an enemy, shall, within fourteen days after the coming into force of this Order, by notice in writing communicate to the Custodian full particulars as to any share of profits or interest due to such enemy; and every partner of every firm, any partner of which becomes an enemy after the coming into force of this Order, or to which a person who becomes an enemy has lent money for the purpose aforesaid before the day on which that person becomes an enemy, shall, within fourteen days after the day on which the partner or person concerned becomes an enemy, by like notice communicate to the Custodian the like particulars in regard to that partner or person.

6. (i.) Where, in exercise of the powers conferred upon him, the Custodian purposes to sell any shares or stock forming part of the capital of any company, or any securities issued by the company, in respect of which a Vesting Order has been made, then any law or any regulation of the company to the contrary notwithstanding, the company may, with the consent of the Governor, purchase the shares, stock or securities, and any shares, stock or securities so purchased may from time to time be reissued by the company.

(ii.) Where the Custodian executes a transfer of any shares, stock or securities which he is empowered to transfer by a Vesting Order, the company or other body in whose books the shares, stock or securities are registered shall, upon the receipt of the transfer so executed by the Custodian and upon being required by him so to do, register the shares, stock or securities in the name of the Custodian or other transferee notwithstanding any regulation or stipulation of the company or other body, and notwithstanding that the Custodian is not in possession of the certificate, scrip or other document of title relating to the shares, stock or securities transferred; but such registration shall be without prejudice to any lien or charge in favour of the company or other body, or to any other lien or charge of which the Custodian has notice.

7. There shall be retained by the Custodian, in respect of his general administrative expenses, fees equal to two per centum of—

- (a) the amount of moneys paid to him; and
- (b) the value at the date of vesting of any property which is vested in him or of which the right of transfer is vested in him.

The value of any property for the purpose of assessing the fees shall be the price which in the opinion of the Custodian such property would fetch if sold in the open market. The fees in respect of such property may be retained out of any proceeds of the sale or transfer thereof or out of any income accrued therefrom.

8. In this Order—

"Custodian" means the Custodian of Enemy Property appointed or deemed to be appointed under the Regulations;  
 "enemy", "enemy property", "prescribed", and "property" have the same meaning as in the Regulations;  
 "Regulations" means the Defence (Trading with the Enemy) Regulations, 1939, as amended by any other defence regulation.

9. This Order may be cited as the Trading with the Enemy (Custodian) Order, 1940, and shall come into force on the date of its publication in the Gazette.